

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PABLO ACRE, et al., : **CIVIL ACTION NO. 1:04-CV-0832**

:

Plaintiffs : **(Judge Conner)**

v.

:

**CHASE MANHATTAN MORTGAGE
CORP., et al.,** :

:

Defendants :

ORDER

AND NOW, this 27th day of April, 2007, upon consideration of the order of court dated March 20, 2007 (Doc. 161), which directed the following plaintiffs to file a response showing cause why their claims should not be dismissed for failure to respond to discovery requests or to prosecute this action: (1) Ariel Garcia, (2) Felicia Garcia, (3) Kirk Gittens, (4) Dianne Gittens, (5) Lisa Glover, (6) Patricia Glover, (7) Felisha Flowers-Moore, (8) Alfred Moore, (9) Thomas Rist, (10) Joann Rist, (11) Joe L. Rodriguez, (12) Gail A. Valle, (13) Lionel Ruffin, (14) Dawn Spinner, (15) Jeffrey West, and (16) Cathy Goode, and advising that failure to file a response shall result in the dismissal of plaintiff's claims, see FED. R. CIV. P. 37, 41(b); see also Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962) (interpreting Federal Rule of Civil Procedure 41(b) as permitting *sua sponte* dismissal by the court); Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984),¹ and it appearing that

¹ The court notes that it is not necessary that all of the Poulis factors "weigh against the non-moving party in order to justify dismissal of a claim." Sunday v. United States, Civ. A. No. 89-8374, 1992 WL 221322, at *2 (E.D. Pa. 1992).

the above-named plaintiffs have not filed a response to the order of court dated March 20, 2007 (Doc. 161) as of the date of this order, and the court finding that plaintiffs were advised of the necessity of responding to defendants' discovery requests and are personally responsible for failing to do so, see id. (identifying "extent of the party's personal responsibility" as a factor), that plaintiffs' conduct has prejudiced defendants by denying them an opportunity to prepare a defense to plaintiffs' claims, see id. (identifying "[p]rejudice to the adversary" as a factor); see also Nelson v. Berbanier, Civ. A. No. 1:05-CV-1490, 2006 WL 2853968, at *1 (M.D. Pa. Oct. 4, 2006), that plaintiffs' repeated refusal to respond to defendants' discovery requests or to otherwise communicate with counsel demonstrates a history of dilatoriness, see Poulis, 747 F.2d at 868 (identifying "history of dilatoriness" as a factor), that plaintiffs' failure to comply with the order of court dated March 20, 2007 (Doc. 161) constitutes willful disregard of the court's authority, see id. at 868-69 (identifying "willful" or "bad faith" conduct as a factor), and that alternative sanctions would be insufficient to overcome plaintiffs' repeated refusal to respond to defendants' discovery requests and the resulting prejudice to defendants, see id. at 869 (identifying availability of "[a]lternative sanctions" to dismissal as a factor), it is hereby ORDERED that:

1. The claims of the following plaintiffs are DISMISSED: (1) Ariel Garcia, (2) Felicia Garcia, (3) Kirk Gittens, (4) Dianne Gittens, (5) Lisa Glover, (6) Patricia Glover, (7) Felisha Flowers-Moore, (8) Alfred Moore, (9) Thomas Rist, (10) Joann Rist, (11) Joe L. Rodriguez, (12) Gail A. Valle, (13) Lionel Ruffin, (14) Dawn Spinner, (15) Jeffrey West, and (16) Cathy Goode.

2. The Clerk of Court is directed to TERMINATE the above-named plaintiffs.
3. The Clerk of Court is directed to TERMINATE Brooke Singh, Binod Singh, and Duncan Keizer.²

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

² The order of court dated March 20, 2007 (Doc. 161) dismissed the claims of Brooke Singh, Binod Singh, and Duncan Keizer, but failed to direct the Clerk of Court to terminate these plaintiffs.